

TITLE XXVIII

ACTIONS FOR REDETERMINATION OF EMPLOYMENT STATUS¹

Rule 290. General

(a) Applicability: The Rules of this Title XXVIII set forth the provisions which apply to actions for redetermination of employment status under Code Section 7436. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for redetermination.

(b) Jurisdiction: The Court shall have jurisdiction of an action for redetermination of employment status under this Title when the following conditions are satisfied:

(1) In connection with an audit of any person, there is an actual controversy involving a determination by the Commissioner as part of an examination that:

* Title XXVIII sets forth procedures for actions under Code Section 7436, added by section 1454 of the Taxpayer Relief Act of 1997, Pub. L. 105-34, 111 Stat. 788 (1997). Code Section 7436 provides for a redetermination of the Commissioner's determination of employment status and is effective on August 5, 1997, the date of enactment of the Taxpayer Relief Act of 1997. Similarly, the Rules of this Title XXVIII are effective with respect to actions for redetermination of employment status commenced on or after August 5, 1997.

(A) One or more individuals performing services for such person are employees of such person for purposes of subtitle C of the Code, or

(B) Such person is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978, Pub. L. 95-600, 92 Stat. 2763, 2885, with respect to such an individual.

(2) A petition for redetermination of employment status is filed with the Court in accordance with Rule 291, or, in a small tax case under Code Section 7436(c), with Rule 295(d)(1), by the person for whom the services are performed.

(c) Time For Filing After Notice Sent: If the Commissioner sends by certified or registered mail to the petitioner notice of the Commissioner's determination of matters set forth in Code Section 7436(a)(1) and (2), then no proceeding may be initiated with respect to such determination unless the petition is filed within the period specified in Code Section 7436(b)(2).

**RULE 291. COMMENCEMENT OF ACTION FOR REDETERMINATION
OF EMPLOYMENT STATUS**

(a) Commencement of Action: An action for redetermination of employment status under Code Section 7436 shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, relating to the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Redetermination of Employment Status Under Code Section 7436" and shall contain the following:

(1) In the case of a petitioner other than a corporation, the petitioner's name and legal residence; in the case of a corporate petitioner, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address and identification number (e.g., Social Security number or employer identification number). The mailing address, legal residence, and principal place of business, or principal office or agency, shall be stated as of the date that the petition is filed.

(2) If the Commissioner sent by certified or registered mail to the petitioner notice of the Commissioner's determination of matters set forth in Code Section 7436(a)(1) and (2), then --

(A) the date of the notice in respect of which the petition is filed and the City and State of the office of the Internal Revenue Service that issued the notice; and

(B) as an attachment, a copy of such notice.

(3) The calendar quarter or quarters for which the determination was made.

(4) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the

Commissioner in the Commissioner's determination of matters set forth in Code Section 7436(a)(1) and (2). Any issue not raised in the assignments of error shall be deemed to be conceded. Each assignment of error shall be separately lettered.

(5) Clear and concise lettered statements of the facts on which the petitioner bases the assignments of error.

(6) A prayer setting forth the relief sought by the petitioner.

(7) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

A claim for reasonable litigation or administrative costs shall not be included in the petition in an action for redetermination of employment status. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Small Tax Case Under Code Section 7436(c): For provisions regarding the contents of a petition in a small tax case under Code Section 7436(c), see Rule 295(d)(1).

(d) Filing Fee: The fee for filing a petition for redetermination of employment status shall be \$60, payable at the time of filing.

RULE 292. DESIGNATION OF PLACE OF TRIAL

At the time of filing a petition for redetermination of employment status, the petitioner shall file a designation of place of trial in accordance with Rule 140.

RULE 293. OTHER PLEADINGS

(a) Answer: Except in a small tax case under Code Section 7436(c), the Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: Except in a small tax case under Code Section 7436(c), for provisions relating to the filing of a reply, see Rule 37.

(c) Small Tax Case Under Code Section 7436(c): For provisions relating to the filing of other pleadings in a small tax case under Code Section 7436(c), see Rule 295(d)(2).

RULE 294. JOINDER OF ISSUE IN ACTIONS FOR REDETERMINATION OF EMPLOYMENT STATUS

(a) Joinder of Issue: Except in a small tax case under Code Section 7436(c), an action for redetermination of employment status under Code Section 7436 shall be deemed at issue as provided by Rule 38.

(b) Small Tax Case Under Code Section 7436(c): An action for redetermination of employment status under Code Section 7436 shall be deemed at issue in a small tax case under Code Section

7436(c) upon the filing of an answer or the expiration of the period specified in Rule 36(a).

**RULE 295. SMALL TAX CASE PROCEDURE IN ACTIONS FOR
REDETERMINATION OF EMPLOYMENT STATUS²**

(a) Small Tax Case Under Code Section 7436(c) Defined: The term "small tax case under Code Section 7436(c)" for purposes of this Title means a case in which:

(1) The amount of employment taxes placed in dispute is ~~\$10,000~~ 50,000 or less for each calendar quarter involved;

(2) The petitioner has made a request in accordance with paragraph (b) of this Rule to have the proceedings conducted under Code Section 7436(c); and

(3) The Court has not issued an order in accordance with paragraph (c) of this Rule, discontinuing the proceedings in the case under Code Section 7436(c).

(b) Election of Small Tax Case Procedure in Actions for Redetermination of Employment Status: With respect to classification of a case as a small tax case under Code Section 7436(c), the following shall apply:

* The amendments are effective with respect to proceedings commenced after July 22, 1998.

(1) A petitioner who wishes to have the proceedings in the case conducted under Code Section 7436(c) may so request at the time the petition is filed. See subparagraph (d)(1) of this Rule.

(2) A petitioner may, at any time after the petition is filed and before trial, request that the proceedings be conducted under Code Section 7436(c). Such request shall contain a statement that the amount of employment taxes placed in dispute is ~~\$10,000~~ 50,000 or less for each calendar quarter involved.

(3) If such request is made in accordance with the provisions of this paragraph, then the case will be docketed as a small tax case under Code Section 7436(c). The Court, on its own motion or on the motion of a party to the case, may, at any time before the trial commences, issue an order directing that the small tax case designation shall be removed and that the proceedings shall not be conducted as a small tax case under Code Section 7436(c). If no such order is issued, then the petitioner will be considered to have exercised the petitioner's option and the Court shall be deemed to have concurred therein, in accordance with Code Section 7436(c), at the commencement of the trial.

(c) Discontinuance of Proceedings: After the commencement of a trial of a small tax case under Code Section 7436(c), but before the decision in the case becomes final, the Court may

order that the proceedings be discontinued under Code Section 7436(c), and that the case be tried under the Rules of Practice other than those applicable to small tax cases under Code Section 7436(c), but such order will be issued only if:

(1) there are reasonable grounds for believing that the amount of employment taxes placed in dispute will exceed ~~\$10,000~~ 50,000 for each calendar quarter involved; and

(2) The Court finds that justice requires the discontinuance of the proceedings under Code Section 7436(c), taking into consideration the convenience and expenses for both parties that would result from the order.

(d) Pleadings in Small Tax Case Under Code Section 7436(c):

(1) *Petition:* A petition in a small tax case under Code Section 7436(c) shall be commenced in accordance with and shall contain the information required by Rule 291. In addition, such petition shall contain the following:

(A) A request that the proceedings be conducted under Code Section 7436(c); and

(B) A statement that the amount of employment taxes placed in dispute is ~~\$10,000~~ 50,000 or less for each calendar quarter involved.

(2) *Other Pleadings:* For provisions relating to the filing of other pleadings, see Rule 175(b) and (c).

(e) Applicable Small Tax Case Rules of Title XVII:

Proceedings in a small tax case under Code Section 7436(c) shall be governed by the provisions of the following Small Tax Case Rules of Title XVII (see Rule 170) with respect to the matters to which they apply: Rule 174 (representation); Rule 176 (preliminary hearing); Rule 177 (trial); Rule 178 (transcript of proceedings); and Rule 179 (number of copies of papers).

TITLE XXIX

LARGE PARTNERSHIP ACTIONS³

RULE 300. GENERAL

* New Title XXIX sets forth procedures for actions under Code Sections 6247 and 6252, added by section 1222(a) of the Taxpayer Relief Act of 1997, Pub. L. 105-34, 111 Stat. 1008 (1997). Code Section 6247 provides for judicial review of the Commissioner's notice of partnership adjustment (action for readjustment of partnership items of a large partnership under Code Section 6247) and Code Section 6252 provides for judicial review of the Commissioner's failure to allow all or some of the adjustments requested in an administrative adjustment request (action for adjustment of partnership items of a large partnership under Code Section 6252). Code Sections 6247 and 6252 are effective with respect to partnership tax years ending on or after December 31, 1997, and the Rules of this Title XXIX likewise are effective with respect to large partnership actions commenced with respect to partnership tax years ending on or after December 31, 1997.

(a) Applicability: The Rules of this Title XXIX set forth the special provisions that apply to actions for readjustment of partnership items of large partnerships under Code Section 6247 and actions for adjustment of partnership items of large partnerships under Code Section 6252. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such large partnership actions.

(b) Definitions: As used in the Rules in this Title--

(1) The term "large partnership" means an electing large partnership as defined in Code Section 775. See Code Section 6255(a)(1).

(2) A "large partnership action" is either an "action for readjustment of partnership items of a large partnership" under Code Section 6247 or an "action for adjustment of partnership items of a large partnership" under Code Section 6252.

(3) The term "partnership item" means any item described in Code Section 6231(a)(3). See Code Section 6255(a)(2).

(4) The term "partnership adjustment" means any adjustment in the amount of any partnership item of a large partnership. See Code Section 6242(d)(1).

(5) The term "designated partner" means the partner or person designated by the large partnership or selected by the Commissioner pursuant to Code Section 6255(b)(1).

(6) A "notice of partnership adjustment" is the notice described in Code Section 6245(b).

(7) The term "administrative adjustment request" means a request for an administrative adjustment of partnership items filed by the large partnership under Code Section 6251(a).

(c) Jurisdictional Requirements: The Court does not have jurisdiction of a large partnership action under this Title unless the following conditions are satisfied:

(1) *Actions for Readjustment of Partnership Items of Large Partnerships:* (A) The Commissioner has issued a notice of partnership adjustment. See Code Section 6245(b).

(B) A petition for readjustment of partnership items of a large partnership is filed with the Court by the large partnership within the period specified in Code Section 6247(a).

(2) *Actions for Adjustment of Partnership Items of Large Partnerships:* (A) The Commissioner has not allowed all or some of the adjustments requested in an administrative adjustment request. See Code Section 6252(a).

(B) A petition for adjustment of partnership items of a large partnership is filed with the Court by the large partnership subject to the conditions and within the period specified in Code Section 6252(b) and (c).

(d) Form and Style of Papers: All papers filed in a large partnership action shall be prepared in the form and style set

forth in Rule 23, and the caption shall state the name of the partnership, as for example, "ABC Partnership, Petitioner".

RULE 301. COMMENCEMENT OF LARGE PARTNERSHIP ACTION

(a) Commencement of Action: A large partnership action shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; Rule 32, relating to form of pleadings; Rule 34(d), relating to number of copies to be filed; and Rule 300(d), relating to caption of papers.

(b) Content of Petition: Each petition shall be entitled either "Petition for Readjustment of Partnership Items of a Large Partnership Under Code Section 6247" or "Petition for Adjustment of Partnership Items of a Large Partnership Under Code Section 6252". Each such petition shall contain the allegations described in paragraph (c) of this Rule, and the allegations described in either paragraph (d) or (e) of this Rule.

(c) All Petitions: All petitions in large partnership actions shall contain the following:

(1) The name, employer identification number, and principal place of business of the large partnership at the time the petition is filed.

(2) The City and State of the office of the Internal Revenue Service with which the large partnership's return for the period in controversy was filed.

(3) A separate numbered paragraph setting forth the name and current address of the designated partner.

A claim for reasonable litigation or administrative costs shall not be included in the petition in a large partnership action. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(d) Petition for Readjustment of Partnership Items of a Large Partnership: In addition to including the information specified in paragraph (c) of this Rule, a petition for readjustment of partnership items of a large partnership shall also contain:

(1) The date of the notice of partnership adjustment and the City and State of the office of the Internal Revenue Service that issued the notice.

(2) The year or years or other periods for which the notice of partnership adjustment was issued.

(3) Clear and concise statements of each and every error which the petitioner alleges to have been committed by the Commissioner in the notice of partnership adjustment. The assignments of error shall include issues in respect of which the burden of proof is on the Commissioner. Any issues not raised in the assignments of error, or in the assignments of error in any amendment to the petition, shall be deemed to be conceded. Each

assignment of error shall be set forth in a separate lettered subparagraph.

(4) Clear and concise lettered statements of the facts on which the petitioner bases the assignments of error, except with respect to those assignments of error as to which the burden of proof is on the Commissioner.

(5) A prayer setting forth relief sought by the petitioner.

(6) The signature, mailing address, and telephone number of the petitioner's designated partner or the petitioner's counsel, as well as counsel's Tax Court bar number.

(7) A copy of the notice of partnership adjustment, which shall be appended to the petition, and with which there shall be included so much of any statement accompanying the notice as is material to the issues raised by the assignments of error. If the notice of partnership adjustment or any accompanying statement incorporates by reference any prior notices, or other material furnished by the Internal Revenue Service, such parts thereof as are material to the assignments of error likewise shall be appended to the petition.

(e) Petition for Adjustment of Partnership Items of a Large Partnership: In addition to including the information specified in paragraph (c) of this Rule, a petition for adjustment of partnership items of a large partnership shall also contain:

(1) The date that the administrative adjustment request was filed and other proper allegations showing jurisdiction in the Court in accordance with the requirements of Code Section 6252(b) and (c).

(2) The year or years or other periods to which the administrative adjustment request relates.

(3) The City and State of the office of the Internal Revenue Service with which the administrative adjustment request was filed.

(4) A clear and concise statement describing each partnership item on the large partnership return that is sought to be changed, and the basis for each such requested change. Each such statement shall be set forth in a separately lettered subparagraph.

(5) Clear and concise lettered statements of the facts on which the petitioner relies in support of such requested changes in treatment of partnership items.

(6) A prayer setting forth relief sought by the petitioner.

(7) The signature, mailing address, and telephone number of the petitioner's designated partner or the petitioner's counsel, as well as counsel's Tax Court bar number.

(8) A copy of the administrative adjustment request shall be appended to the petition.

(f) Joinder of Parties: (1) *Permissive Joinder:* A separate petition shall be filed with respect to each notice of partnership adjustment issued to separate large partnerships. However, a single petition for readjustment of partnership items of a large partnership or petition for adjustment of partnership items of a large partnership may be filed seeking readjustments or adjustments of partnership items with respect to more than one notice of partnership adjustment or administrative adjustment request if the notices or requests pertain to the same large partnership.

(2) *Severance or Other Orders:* With respect to a case based upon multiple notices of partnership adjustment or administrative adjustment requests, the Court may order a severance and a separate case may be maintained with respect to one or more of such notices or requests whenever it appears to the Court that proceeding separately is in furtherance of convenience, or to avoid prejudice, or when separate trials will be conducive to expedition or economy.

RULE 302. DESIGNATION OF PLACE OF TRIAL

At the time of filing a petition in a large partnership action, a designation of place of trial shall be filed in accordance with Rule 140.

RULE 303. OTHER PLEADINGS

(a) **Answer:** The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) **Reply:** For provisions relating to the filing of a reply, see Rule 37.

RULE 304. JOINDER OF ISSUE IN LARGE PARTNERSHIP ACTIONS

A large partnership action shall be deemed at issue as provided by Rule 38.

RULE 305. ACTION FOR ADJUSTMENT OF PARTNERSHIP ITEMS OF LARGE PARTNERSHIP TREATED AS ACTION FOR READJUSTMENT OF PARTNERSHIP ITEMS OF LARGE PARTNERSHIP

If, after the filing of a petition for adjustment of partnership items of a large partnership (see Code Section 6252(a) and Rule 301(a)) but before the hearing of such petition, the Commissioner mails to the large partnership a notice of partnership adjustment for the partnership taxable year to which the petition relates, then such petition shall be treated as a petition in an action for readjustment of the partnership items to which such notice relates. The petitioner, within 90 days after the date on which the notice of partnership adjustment is mailed, shall file an amendment to the petition, setting forth every error which the petitioner alleges to have been committed by the Commissioner in the notice of partnership adjustment, and

the facts on which the petitioner bases the assignments of error. A copy of the notice of partnership adjustment shall be appended to the amendment to the petition.

TITLE XXX

ACTIONS FOR DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN⁴

Rule 310. General

(a) Applicability: The Rules of this Title XXX set forth the provisions which apply to actions for declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return pursuant to Code Section 6234. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for declaratory judgment.

(b) Definitions: As used in the Rules in this Title--

* New Title XXX sets forth procedures for declaratory judgment actions under Code Section 6234, added by section 1231(a) of the Taxpayer Relief Act of 1997, Pub. L. 105-34, 111 Stat. 1020 (1997). Code Section 6234 provides for a declaratory judgment relating to the treatment of items other than partnership items with respect to an oversheltered return, and is effective with respect to partnership tax years ending after August 5, 1997. Similarly, the Rules of this Title XXX are effective with respect to oversheltered return actions commenced with respect to partnership tax years ending after August 5, 1997.

(1) An "oversheltered return action" means an action for declaratory judgment provided for in Code Section 6234 relating to the treatment of items other than partnership items with respect to an oversheltered return.

(2) The term "partnership item" means any item described in Code Section 6231(a)(3).

(3) An "oversheltered return" means an income tax return which--

(A) shows no taxable income for the taxable year, and

(B) shows a net loss from partnership items. See Code Section 6234(b).

(4) "Declaratory judgment" is the decision of the Court in an oversheltered return action.

(c) Jurisdiction: The Court shall have jurisdiction of an action for declaratory judgment under this Title when the following conditions are satisfied:

(1) The Commissioner has issued a notice of adjustment. See Code Section 6234(a)(3).

(2) A petition for declaratory judgment is filed with the Court within the period specified in Code Section 6234(c). See Code Section 7502.

**RULE 311. COMMENCEMENT OF ACTION FOR DECLARATORY
JUDGMENT (OVERSHELTERED RETURN)**

(a) Commencement of Action: An action for declaratory judgment shall be commenced by filing a petition with the Court. See Rule 22, relating to the place and manner of filing the petition, and Rule 32, relating to form of pleadings.

(b) Content of Petition: Every petition shall be entitled "Petition for Declaratory Judgment (Oversheltered Return)" and shall comply with the requirements of Rule 34(b), or shall, in the alternative, be substantially in accordance with Form 1 shown in Appendix I, except that "adjustment" shall be substituted therein for "deficiency or liability".

(c) Filing Fee: The fee for filing a petition for declaratory judgment shall be \$60, payable at the time of filing.

RULE 312. DESIGNATION OF PLACE OF TRIAL

At the time of filing a petition for declaratory judgment with respect to an oversheltered return, the petitioner shall file a designation of place of trial in accordance with Rule 140.

RULE 313. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

**RULE 314. JOINDER OF ISSUE IN ACTION FOR DECLARATORY
JUDGMENT (OVERSHELTERED RETURN)**

An action for declaratory judgment under this Title XXX shall be deemed at issue as provided by Rule 38.

**RULE 315. DISPOSITION OF ACTION FOR DECLARATORY
JUDGMENT (OVERSHELTERED RETURN)**

Disposition of an oversheltered return action generally will be by trial, conducted in accordance with the Rules contained in Title XIV. In addition, an action for declaratory judgment may be decided without a trial in accordance with the Rules contained in Title XII.

**RULE 316. ACTION FOR DECLARATORY JUDGMENT (OVERSHELTERED
RETURN) TREATED AS DEFICIENCY ACTION**

If, after the filing of a petition for declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return for a taxable year but before the Court makes a declaration, the treatment of any partnership item for that taxable year is finally determined pursuant to Code Section 6234(g)(4), or any such item ceases to be a partnership item pursuant to Code Section 6231(b), and as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment, then the notice of adjustment shall be treated as a notice of deficiency under Code Section 6212 and the petition

shall be treated as a petition in an action brought under Code Section 6213. See Code Section 6234(g)(3).

TITLE XXXI

ACTIONS FOR DETERMINATION OF RELIEF FROM JOINT AND SEVERAL LIABILITY ON A JOINT RETURN⁵

Rule 320. General

(a) Applicability: The Rules of this Title XXXI set forth the provisions which apply to actions for the determination of relief from joint and several liability on a joint return pursuant to Code Section 6015. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions.

(b) Jurisdiction: The Court shall have jurisdiction of an action for determination of relief from joint and several

* New Title XXXI sets forth procedures for actions under Code Section 6015(e), added by section 3201 of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, 112 Stat. 734 (1998). Code Section 6015(e) provides for the determination by the Tax Court of the appropriate relief available to a taxpayer under that section, and is effective with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date, except that the 2-year period for electing the benefits of that section shall not expire before the date which is 2 years after the date of the first collection activity after July 22, 1998. Similarly, the Rules of this Title XXXI are effective with respect to actions for determination of relief from joint and several liability on a joint return commenced with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date.

liability on a joint return under this Title when the conditions of Code Section 6015 have been satisfied.

(c) Form and Style of Papers: All papers filed in an action for determination of relief from joint and several liability on a joint return shall be prepared in the form and style set forth in Rule 23.

**RULE 321. COMMENCEMENT OF ACTION FOR DETERMINATION
OF RELIEF FROM JOINT AND SEVERAL LIABILITY
ON A JOINT RETURN**

(a) Commencement of Action: An action for determination of relief from joint and several liability on a joint return is commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, relating to the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Determination of Relief from Joint and Several Liability on a Joint Return" and shall contain the following:

(1) The petitioner's name, legal residence, mailing address, and taxpayer identification number (e.g., Social Security number).

(2) A statement of the facts upon which the petitioner relies to support the jurisdiction of the Court and, as an

attachment, a copy of the Commissioner's notice of determination of the relief available pursuant to Code Section 6015, if any.

(3) A statement of the facts upon which the petitioner relies in support of the relief requested.

(4) A prayer setting forth the relief sought by the petitioner; and

(5) The signature, mailing address, and telephone number of petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

A claim for reasonable litigation or administrative costs shall not be included in the petition in an action for determination of relief from joint and several liability on a joint return. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Filing Fee: The fee for filing a petition for determination of relief from joint and several liability on a joint return shall be \$60, payable at the time of filing.

RULE 322. DESIGNATION OF PLACE OF TRIAL

At the time of filing a petition for determination of relief from joint and several liability on a joint return, the petitioner shall file a designation of place of trial in accordance with Rule 140.

**RULE 323. JOINDER OF ISSUE IN ACTION FOR DETERMINATION
OF RELIEF FROM JOINT AND SEVERAL LIABILITY
ON A JOINT RETURN**

An action for determination of relief from joint and several liability on a joint return shall be deemed at issue as provided by Rule 38.

RULE 324. OTHER PLEADINGS

(a) Answer: (1) *In General:* The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(2) *Additional Requirement for Answer:* The answer shall specifically state that notice has been provided to the other individual filing the joint return that innocent spouse relief has been requested.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

RULE 325. NOTICE AND INTERVENTION

(a) Notice: The Commissioner shall serve notice of the filing of the petition on the other individual filing the joint return.

(b) Intervention: If the other individual filing the joint return desires to intervene, then such individual shall file a notice of intervention with the Court not later than 60 days after service of the notice by the Commissioner of the filing of the petition, unless the Court directs otherwise, and attach to the notice of intervention a copy of such notice of filing. All new matters of claim or defense in a notice of intervention shall be deemed denied.

TITLE XXXII

LIEN AND LEVY ACTIONS⁶

RULE 330. GENERAL

(a) Applicability: The Rules of this Title XXXII set forth the provisions which apply to lien and levy actions under Code

* New Title XXXII sets forth procedures for actions under Code Sections 6320(c) and 6330(d), added by section 3401 of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, 112 Stat. 746 (1998). Code Sections 6320(c) and 6330(d) provide for judicial review of determinations made under Code Sections 6320 and 6330. Those sections are effective with respect to collection actions initiated after January 19, 1999, and the Rules of this Title XXXII likewise are effective with respect to lien and levy actions commenced with respect to collection actions initiated after January 19, 1999.

Sections 6320(c) and 6330(d). Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions.

(b) Jurisdiction: The Court shall have jurisdiction of a lien or levy action under this Title when the conditions of Code Section 6320(c) or 6330(d), as applicable, have been satisfied.

RULE 331. COMMENCEMENT OF ACTION

(a) Commencement of Action: A lien and levy action under Code Sections 6320(c) and 6330(d) shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, regarding the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Lien or Levy Action under Code Section 6320(c) or 6330(d)", as applicable, and shall contain the following:

(1) In the case of a petitioner other than a corporation, the petitioner's name and legal residence; in the case of a corporate petitioner, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address and identification number (e.g., Social Security number or employer identification number). The mailing address, legal residence, and principal place of

business, or principal office or agency, shall be stated as of the date that the petition is filed.

(2) The date of the determination made by the Internal Revenue Service Office of Appeals under Code Section 6320 or 6330, as applicable (hereinafter the "lien or levy determination"), and the City and State of the Office which made such determination.

(3) The amount or amounts of the underlying tax liability, and the year or years or other periods to which the lien or levy determination relates.

(4) Clear and concise assignments of each and every error which the petitioner alleges to have been committed in the lien or levy determination. Any issue not raised in the assignments of error shall be deemed to be conceded. Each assignment of error shall be separately lettered.

(5) Clear and concise lettered statements of the facts on which the petitioner bases each assignment of error.

(6) A prayer setting forth the relief sought by the petitioner.

(7) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(8) As an attachment, a copy of the lien or levy determination.

A claim for reasonable litigation or administrative costs shall not be included in the petition in a lien and levy action. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Filing Fee: The fee for filing a petition for a lien and levy action shall be \$60, payable at the time of filing.

RULE 332. DESIGNATION OF PLACE OF TRIAL

At the time of filing a petition for a lien and levy action, a designation of place of trial shall be filed in accordance with Rule 140.

RULE 333. OTHER PLEADINGS

(a) **Answer:** The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) **Reply:** For provisions relating to the filing of a reply, see Rule 37.

RULE 334. JOINDER OF ISSUE IN LIEN AND LEVY ACTIONS

A lien and levy action under Code Sections 6230(c) and 6330(d) shall be deemed at issue as provided by Rule 38.

APPENDIX II

Code Section 7463

DISPUTES INVOLVING ~~\$10,000~~ 50,000 OR LESS

(See Rules 170 through 179)

(a) **IN GENERAL.**--In the case of any petition filed with the Tax Court for a redetermination of a deficiency where neither the amount of the deficiency placed in dispute, nor the amount of any claimed overpayment, exceeds:

- (1) ~~\$10,000~~ 50,000 for any one taxable year, in the case of the taxes imposed by subtitle A,
- (2) ~~\$10,000~~ 50,000 in the case of the tax imposed by chapter 11,
- (3) ~~\$10,000~~ 50,000 for any one calendar year, in the case of the tax imposed by chapter 12, or
- (4) ~~\$10,000~~ 50,000 for any one taxable period (or, if there is no taxable period, taxable event) in the case of any tax imposed by subtitle D which is described in Section 6212(a) (relating to a notice of deficiency),

at the option of the taxpayer concurred in by the Tax Court or a division thereof before the hearing of the case, proceedings in the case shall be conducted under this section. Notwithstanding the provisions of Section 7453, such proceedings shall be conducted in

accordance with such rules of evidence, practice, and procedure as the Tax Court may prescribe. A decision, together with a brief summary of the reasons therefor, in any such case shall satisfy the requirements of Sections 7459(b) and 7460.

(b) FINALITY OF DECISIONS.--A decision entered in any case in which the proceedings are conducted under this section shall not be reviewed in any other court and shall not be treated as a precedent for any other case.

(c) LIMITATION OF JURISDICTION.--In any case in which the proceedings are conducted under this section, notwithstanding the provisions of Sections 6214(a) and 6512(b), no decision shall be entered redetermining the amount of a deficiency, or determining an overpayment, except with respect to amounts placed in dispute within the limits described in subsection (a) and with respect to amounts conceded by the parties.

(d) DISCONTINUANCE OF PROCEEDINGS.--At any time before a decision entered in a case in which the proceedings are conducted under this section becomes final, the taxpayer or the Secretary may request that further proceedings under this section in such case be discontinued. The Tax Court, or the division thereof hearing such case, may, if it finds that (1) there are reasonable grounds for believing that the amount of the deficiency placed in dispute, or the amount of an overpayment, exceeds the applicable jurisdictional amount described in subsection (a), and (2) the amount of such excess is large enough to justify granting such request, discontinue further proceedings in such case under this section. Upon any such discontinuance, proceedings in such case shall be conducted in the same manner as cases to which the provisions of Sections 6214(a) and 6512(b) apply.

(e) AMOUNT OF DEFICIENCY IN DISPUTE.--For purposes of this section, the amount of any deficiency placed in dispute includes additions to the tax, additional amounts, and penalties imposed by chapter 68, to the extent that the procedures described in subchapter B of chapter 63 apply.